

REPORT DOCUMENTATION PAGE				Form Approved OMB No. 0704-0188	
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing this collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0188), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS.					
1. REPORT DATE (DD-MM-YYYY) 16-05-2003		2. REPORT TYPE FINAL		3. DATES COVERED (From - To)	
4. TITLE AND SUBTITLE CONTRACTORS IN THE THEATER: IMPLICATIONS FOR JOINT OPERATIONAL PLANNING AND EXECUTION (U)				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S) CDR JEANNE E. BINDER, SC, USN Paper Advisor (if Any): PROF Paul J. St. Laurent				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Joint Military Operations Department Naval War College 686 Cushing Road Newport, RI 02841-1207				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION / AVAILABILITY STATEMENT Distribution Statement A: Approved for public release; Distribution is unlimited.					
13. SUPPLEMENTARY NOTES A paper submitted to the faculty of the NWC in partial satisfaction of the requirements of the JMO Department. The contents of this paper reflect my own personal views and are not necessarily endorsed by the NWC or the Department of the Navy.					
14. ABSTRACT The use of contractors in the theater of operations is nothing new. However, downsizing efforts and outsourcing, as well as the increasing complexity of military equipment has increased military reliance on contractors. Contractors impact the theater of operations both positively and negatively. Contractors can fill shortfalls in manpower or skills, free up military forces for other missions, or reduce the military footprint. Contractor services do not come without cost or risk. Costs include the contract costs, in-theater logistical and personnel support, and personnel to provide contractor protection. Contractors operate under the terms of their contracts. The Joint Force Commander (JFC) does not have the same authority and control over contract personnel as military personnel. The terms of the contract and mandatory procedures for modifying contracts can limit the JFC's flexibility. Finally, the JFC needs to consider the risks associated with contractor nonperformance. The presence of contractors in the theater of operations is a reality that JFCs must deal with for the foreseeable future. Joint Force Commanders must develop an awareness of the benefits and issues that defense contractors bring to the operational theater, and address them in the planning and execution of joint military operations. This paper will discuss some of the many issues facing the Joint Force Commander and the staff as they plan for and execute operations involving contractor support. It will also present some recommendations for enhancing the positive aspects of contractor support and mitigating the negatives.					
15. SUBJECT TERMS Contractor, Civilians, Battlefield, Theater of Operations, Legal Status, Joint Force Commander					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES 28	19a. NAME OF RESPONSIBLE PERSON Chairman, JMO Dept
a. REPORT UNCLASSIFIED	b. ABSTRACT UNCLASSIFIED	c. THIS PAGE UNCLASSIFIED			19b. TELEPHONE NUMBER (include area code) 401-841-3556

Standard Form 298 (Rev. 8-98)

NAVAL WAR COLLEGE
Newport, R.I.

CONTRACTORS IN THE THEATER: IMPLICATIONS FOR JOINT OPERATIONAL PLANNING AND
EXECUTION

by

Jeanne E. Binder
Commander, SC, USN

A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Signature: _____

16 May 2003

Professor Paul J. St. Laurent
Professor, JMO Department

Abstract of

CONTRACTORS IN THE THEATER: IMPLICATIONS FOR JOINT OPERATIONAL PLANNING AND EXECUTION

The use of contractors in the theater of operations is nothing new. However, downsizing efforts and outsourcing, as well as the increasing complexity of military equipment has increased military reliance on contractors. Contractors impact the theater of operations both positively and negatively. Contractors can fill shortfalls in manpower or skills, free up military forces for other missions, or reduce the military footprint. Contractor services do not come without cost or risk. Costs include the contract costs, in-theater logistical and personnel support, and personnel to provide contractor protection. Contractors operate under the terms of their contracts. The Joint Force Commander (JFC) does not have the same authority and control over contract personnel as military personnel. The terms of the contract and mandatory procedures for modifying contracts can limit the JFC's flexibility. Finally, the JFC needs to consider the risks associated with contractor nonperformance. The presence of contractors in the theater of operations is a reality that JFCs must deal with for the foreseeable future. Joint Force Commanders must develop an awareness of the benefits and issues that defense contractors bring to the operational theater, and address them in the planning and execution of joint military operations. This paper will discuss some of the many issues facing the Joint Force Commander and the staff as they plan for and execute operations involving contractor support. It will also present some recommendations for enhancing the positive aspects of contractor support and mitigating the negatives.

Table of Contents

	<i>Page</i>
Cover	i
Abstract	iii
Introduction	1
Contractors in the Operational Theater	3
Some Benefits of Using Contractors	4
Some Concerns about Using Contractors	6
How Contractors Influence Operational Art	10
How Contractors Impact Operational Functions	12
Recommendations	15
Conclusion	20
Bibliography	22

Introduction

Workers under contract have provided support to fielded military forces for hundreds of years. Often this contractor support was logistical in nature. Today, the U.S. military continues to rely and is becoming increasingly reliant on contractors to perform tasks in the theater of operations. Contractors provide in-theater support for a wide range of operations. These operations run the gamut from peacetime operations and military operations-other-than-war (MOOTW), to lesser conflicts and wartime operations. Joint Force Commanders (JFCs) are responsible for applying the concept of operational art to plan and execute campaigns and major operations to achieve operational and strategic goals. Since the collapse of the Soviet Union, there has been an ongoing effort to transform the U.S. Armed Forces by reducing numbers of troops while increasing lethality. Restricted budgets required military leaders to make difficult trade-offs regarding manning levels, benefits, and recapitalization of equipment. No longer focused on a single Soviet threat, U.S. forces are increasingly engaged in a wide variety of operations throughout the world. Ongoing A-76 actions by the Department of Defense have resulted in the contracting out of many functions, particularly in the areas of support and logistics functions.¹ Heretofore, military personnel traditionally performed these functions. Today's complex military equipment has accelerated this process. As a result, the specialized skills to maintain and repair this equipment are no longer common or intuitive. In World War II, one contributing factor to logistical success was that most soldiers were backyard auto mechanics. It was relatively straightforward and easy to strip parts from destroyed vehicles to repair "not-so-complex"

¹ OMB Circular A-76 provides guidance and procedures for determining whether products or services currently performed by the government should be contracted out to a commercial activity or retained in-house.

tanks and trucks then continue to push forward.² Today's service members generally do not have the time, resources, or technical background to make other than rudimentary repairs to current systems. Some critical aspects of current systems such as electronics parts can not be repaired or replaced without expensive specialized skills. Recruiting, training, and retaining service members with the highly technical skills required to maintain in-house capability is an uphill battle. Adding to the challenge is the draw of these skills to the commercial employment market. The increasing technical complexity of equipment, ongoing outsourcing efforts, and shrinking size of the military all contribute to the need for resources beyond what the traditional soldier can provide. The military has found that solution through increased requirements for contractor support, particularly contractor logistics support (CLS). The presence of contractors in the operational theater is a reality that requires the attention of Joint Force Commanders for the foreseeable future. What value is added by using contractors? What are the risks and costs? How are contractors integrated? Joint Force Commanders must develop an awareness of the benefits and issues that defense contractors bring to the operational theater, and address them in the planning and execution of joint military operations.³ Contract personnel are a different type of "force" with their own unique organizational and cultural characteristics. Joint Force Commanders attempting to integrate contractors with their personnel are sailing into uncharted waters which can be turbulent, frustrating, and fraught with hidden perils. This paper will discuss some of the many issues facing the Joint Force Commander and the staff as they plan for and execute operations

² Devens, Diane M., "A Jointness Concept for the Future: Civilians, Contractors, and Soldiers in Sync," (Unpublished Research Paper, Army War College, Carlisle, PA: 1998), 7.

³ For this paper the term contractor focuses primarily on U.S. and third party country personnel who come from outside the theater to provide support. Host Nation contractors will not be directly addressed. Although much of what will be discussed may be applicable to Host Nation contractors, there are other issues involving them (e.g. SOFAs, Host Nation Agreements, and local laws and customs) that will not be addressed.

involving contractor support. It will also present some recommendations for enhancing the positive aspects of contractor support and mitigating the negatives.

Contractors in the Operational Theater

Contractors in the theater can be categorized into three general types: internal theater support; external theater support; and systems support. Internal theater support is arranged or contracted within the mission area.⁴ Host nation support agreements and contracts awarded directly to local vendors are examples of this type of contract support. External support contracts originate outside the theater of operations. These contracts can be prearranged or awarded during the contingency.⁵ The Army's Logistics Civil Augmentation Program (LOGCAP) contracts which provide logistics and engineering support are examples of external support contracts. A contract awarded to DynCorp during operations in East Timor for heavy helicopter lift was an external support contract awarded during the contingency.⁶ A systems contractor provides support for a specific weapons system, support system or type of equipment.⁷ These types of contracts are usually prearranged. During operations in Bosnia, TRW performed over 70 percent of the maintenance on Hunter unmanned aerial vehicles.⁸ Their contract is an example of a systems support contract.

External and systems support contractors provide a wide variety of services to the JFC in support of military forces. One of the great successes of Operation Joint Endeavor and Operation Joint Guard was the development of LOGCAP.⁹ In Bosnia, DynCorp contract

⁴ U.S. Army, Contracting Support on the Battlefield, Army Field Manual 100-10-2 (Washington DC: April 1999), 2.15-16.

⁵ Ibid.

⁶ Mattox, Philip A. and Guinn, William A., "Contingency Contracting in East Timor." Army Logistician, 32, no. 4 (July-August 2000): 31.

⁷ U.S. Army, Contracting Support on the Battlefield, 2.15-16.

⁸ Robinson, Linda, "America's Secret Armies," 4 November 2002, <<http://www.sandline.com/hotlinks/4contractors.htm>> [16 March 2003], 2.

⁹ Williamson, Darrel A., "Contracted Logistics in Bosnia," Army Logistician, 30, no. 3 (May-June 1998): 21.

personnel ran the Army Oil Analysis Program and their test, measurement, and diagnostic equipment calibration lab.¹⁰ During Operation Desert Storm, 76 U.S. contractors deployed with 969 personnel to provide logistical and systems support.¹¹ Many of the information systems used to support warfighters in Operation Iraqi Freedom were set up by contractors and the JFC depends on contractors to operate and maintain several of these systems.¹² These system support experts and other contractors are not meant to replace military forces. They augment the forces for many reasons, including their specialized technical skills and to provide capabilities not available to the JFC via organic military assets. They can also be considered a healthy force multiplier in contingency areas where military force levels are restricted by number or mission but “civilian” counterparts do not count towards those restrictions.

Some Benefits of Using Contractors

Contractors provide the JFC access to a variety of skills, business connections, and additional manpower that generate additional options in the planning and execution of campaigns and major operations. In light of recent and ongoing military downsizing, the availability of contractor support allows the development of a force structure with a greater tooth-to-tail ratio. In the theater, the use of contractors allows the JFC to free up forces for other mission critical military tasks. Additionally, contractors can be a force multiplier in theaters where higher authority has imposed a force cap. President Johnson avoided congressional troop ceilings during the Vietnam War by employing at its peak over 80,000

¹⁰ Cato, L. J., “Inside the Logistics Support Element-Bosnia,” *Army Logistician*, 33, no. 6 (November-December 2001): 26.

¹¹ Orsini, Eric A. and Bubnitz, Gary T., “Contractors on the Battlefield: Risks on the Road Ahead?” <<http://www.almc.army.mil/alog/issues/JanFeb99/MS376.htm>> [16 April 2003], 1.

¹² Caterinicchia, Dan, “Contractors Integral to Wartime IT,” *Federal Computer Week*, (7 April 2003), 1.

contractors.¹³ In Bosnia, President Clinton imposed a force cap of less than 20,000 military personnel.¹⁴ The use of contractors allowed the JFC to deploy more operational forces without violating the force cap. In certain peace operations or in theaters sensitive to military presence, contractor support can be used to minimize the military footprint. In some cases, the use of contractors can ease the burden on the JFC's logistical support system. The use of Brown and Root in the Balkans for base operations provides continuity and reduces the pressure on military forces that are under pressure to support operations in other theaters. In an extremely noteworthy example, during the early phases of operations in Afghanistan, fuel had to be airlifted into the theater in bladders. While necessary at the outset of operations, this was a very costly and inefficient way to transport fuel and tied up limited strategic airlift resources. As soon as it was possible an overland fuel tanker truck contract was awarded to a third party country contractor by the Defense Energy Support Center. This allowed valuable airlift assets to support other critical missions. When military resources are constrained, contractors are an alternate resource for JFCs to maximize the effective use of their forces in accomplishing the mission.

In other cases, contractor personnel can provide unique skills and levels of expertise that might not otherwise be available to JFC in the theater of operations. Much of the sophisticated equipment and systems used by the military today require highly trained specialists to set up, operate, and maintain. It is not always practical or possible to train and develop sufficient expertise within the military. Often highly skilled military personnel are difficult to retain. Mantech International provided highly technical support for Eagle Base,

¹³ Castillo, Lourdes A., Waging War with Civilians: Asking the Unanswered Questions," <<http://www.airpower.maxwell.af.mil/airchronicles/apj/apj00/Castillo.doc>> [16 March 2003], 3.

¹⁴ Ibid.

Bosnia, by manning the Division Automation Office.¹⁵ No one in theater knew how to install a new prototype satellite system that came without instructions on a HMMWV on very short notice for a mission.¹⁶ The Mantech contractors were able to use their technical expertise, experience with electronics, and some personal tools to get the system installed and operational in time for the mission.¹⁷ Other skills and services are required infrequently or have surge demands. For example, JFC commanders rarely require oil well firefighting capability. However, it was required in Desert Storm and again for Operation Iraqi Freedom. Contractors were able to fill the gap in capabilities and performed well in a relatively dangerous environment. Contracted capability can be increased or decreased quickly in response to changing requirements.

Some Concerns about Using Contractors

The many potential benefits derived from using contractors in the theater of operations are not without their areas of concern. There are costs and risks associated with using contractors in military operations. Various debates on the merits of using contractors in military theaters of operation have centered on such concerns as contractor reliability and their legal status. There are concerns that the military is becoming over-reliant on contractor support and that military missions could be jeopardized if contractors are unable or unwilling to perform. Some feel that the close interaction between military personnel and contractors, particularly in hostile theaters, puts contractors at risk under international law. It is important for JFCs to understand and recognize the limitations of contractor support. Contractors are not a panacea for all military manpower or capabilities shortfalls.

¹⁵ Cato, 26.

¹⁶ Cato, 27.

¹⁷ Ibid.

No commander should forget that contractors are still civilian employees who serve at their own will. They are bound only by the terms of their contract and personal commitment to fulfill those terms. In real terms, the JFC has no means of enforcing performance if hostilities increase and the contractors or its individual employees feel it is unsafe to continue. That point is illustrated by several events. The infamous tree-cutting incident in Korea in August 1976, increased tensions on the peninsula to the point DEFCON 3 was initiated.¹⁸ Although Department of Army civilians are not contractors, their reaction provides an indication of how contractors might react in similar situations. In this case, hundreds of Department of Army civilians asked to be immediately transported out of Korea. During Desert Storm several Air Force installation food service contractor personnel walked off the job after chemical attack warnings and only returned after being provided the proper protective equipment.¹⁹ Although a contractor leaving when faced with danger is a possibility that JFCs should consider, more often than not contractors continue to do their best to perform under difficult circumstances. In December 1995 when Liberia fell into chaos, two dozen International Charter, Inc. contractors hired by the Department of State defended the U.S. Embassy until Navy Seals arrived.²⁰ Some theaters or contingencies are not suited for contractor support in the early phases of operations or at all. Some areas may simply be too dangerous or immature to support contractor operations. Sometimes there simply isn't time for the contractor to fully mobilize. "...In Operation Joint Endeavor, LOGCAP didn't [sic.] necessarily excel in initial entry capability especially when it didn't [sic.] have the appropriate time to set up operations. Greater synergy was [sic.] realized

¹⁸ Orsini and Bubnitz, 1-2.

¹⁹ Dowling, Maria J. and Vincent J. Feck, "Feasibility of a Joint Engineering and Logistics Contract," Air Command and Staff College Wright Flyer Paper No. 7, (September 1999), 7.

through the combined efforts of Air Force RED HORSE, Navy SeaBees, and the LOGCAP contractor.”²¹ The suitability of using contractors and contractor reliability should be a consideration for JFCs when planning. Plans must include branches which address the question “what if the contractor cannot perform or fails?”

The increasing use of contractors, particularly for systems support, is causing them to be more active in the frontlines. Some move from unit to unit providing support while some are even “embedded” in units. This raises concerns about the legal status of contractors and protecting that status. Most legal sources agree that contractors do not meet the definition of combatant as set forth in international conventions. Many legal sources also consider contractors to be noncombatants. If captured and detained, noncombatants are entitled to prisoner of war status. “The armed forces of the belligerent parties may consist of combatants and noncombatants. In the case of capture by the enemy, both have the right to be treated as prisoners of war.”²² However, Army Material Command Publication 715-8 states that the Army now defines contractors as “civilians accompanying the Armed Forces.” Joint Publication 4-0 also defines contractors in this way. The position adopted by Joint and Army doctrine is supported by both the Hague and Geneva Conventions.

Individuals who follow an army without directly belonging to it, such as newspaper correspondents and reporters, sutlers and contractors, who fall into the enemy’s hands and whom the latter thinks expedient to detain, are entitled to be treated as prisoners of war, provided they are in possession of a certificate from the military authorities of the army which they are accompanying.²³

Prisoners of war, in the sense of the present convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:...Persons who accompany the armed forces without actually being

²⁰ Robinson, 5.

²¹ Dowling and Feck, 22.

²² U.S. Naval War College, International Law Documents 1950-51, (Washington DC: 1952), 75.

²³ Ibid, 73.

members thereof, such as civil members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model...²⁴

The latter interpretation of international law seems more suitable. Regardless of which is chosen, it is critical for the status of contractors to be protected. Without relative guarantees of safety, security, and well-being, contractors are less likely to perform or be affordable. Contractors are only allowed to carry a weapon in theater if the JFC approves, company policy permits, and the contractor agrees.²⁵ Contractors are only authorized use of their weapon for self-defense. Only a combatant can offensively and deliberately kill an enemy soldier; a civilian never has this right.²⁶ While the wearing of a military-type uniform by contractors is not prohibited by international law, the practice could lead to confusion about a contractor's status. Army Field Manual 3-100.21 states that "unless specifically authorized by the combatant commander, contractor personnel will not wear military uniforms or clothing except for specific items required for safety or security." Contractors don't want to do anything that will jeopardize their status. "For example, Brown and Root and DynCorp resisted having employees wear BDUs."²⁷ Protecting the legal status of all personnel involved in theater operations (military and civilian) should be a JFC concern when determining how to employ contractor personnel.

One of the other issues facing the JFC is the lack of guidance on handling contractors provided by joint doctrine. The Joint Publication 4-0 has a brief chapter which provides

²⁴ Ibid, 116.

²⁵ Castillo, 6.

²⁶ Gutierrez, John T., "Contracted Logistics Support in Operational Environments: The Legal Issues and Their Effects on the Decision to Outsource," (Unpublished Research Paper, Naval Post Graduate School, Monterey, CA: 2001), 56.

²⁷ Dowling and Feck, 26.

definitions, outlines responsibilities and provides some general guidelines. However, it offers little in the way of framework for the JFC to use in determining how to best manage contractors. The Army has more developed doctrine and guidelines for its commanders to address contractors in the theater of operations. Army publications such as Field Manual 3-100.21, Army Regulation 715-9, Army Material Command Publication 715-18, and Field Manual 100-10-2 provide specific guidance and structures for contractor management. Although Army doctrine may not be the answer for joint doctrine, it is an excellent starting point. JFCs and joint staffs could readily use Army doctrine to assist them in developing their approach to handling contractors in theater. Even though JFCs may not develop joint doctrine, their experiences and feedback are excellent tools for shaping future doctrine. JFCs should collect and submit their experiences and observations regarding contractors in the theater of operations to a central information repository. An example of such a repository is the Secretary of the Air Force's acquisition website which provides a link to after action reports filed by contingency contracting teams.²⁸ These reports are sorted by region and provide information about the local area, sources of supply, facilities transportation, problems encountered and other pertinent findings. If JFCs do not document lessons learned or they are not made available to others, these details are lost as well as opportunities to improve doctrines and practices.

How Contractors Influence Operational Art

“JFC’s employ operational art...in developing campaigns and operations.”²⁹ Balance, operational reach, culmination, and termination are facets of operational art which can be influenced by the effective or ineffective use of contractor support. “Balance is the

²⁸ www.safaq.hq.af.mil/contracting/contingency/

maintenance of the force, its capabilities, and its operations in such a manner as to contribute to freedom of action and responsiveness.”³⁰ JFCs can use contractor support to augment forces. However, contractors can also be a burden and may disrupt balance if not properly managed or utilized. For example, bringing contractors into the theater prematurely may create more problems than if they had not been used at all. Unanticipated support requirement for contractors, their equipment and personnel may degrade the support expected from the contractor as well as divert resources from combat units, thus reducing the force capabilities. “Operational reach is the distance over which military power can mass effects and be deployed decisively.”³¹ Operational reach can be extended by establishing forward bases, using local resources, and improving transportation. Contractors can facilitate all of these activities. The maturity and level of threat in a theater may impact the effectiveness of contractors in supporting the JFC’s efforts to extend operational reach. Culmination is the point where the attacker is no longer stronger than the defender or where the defender can no longer defend.³² Logistics can be used to delay culmination. Contractors can augment military logistics efforts or assist in resolving logistical challenges in both defensive and offensive modes. Termination includes a period of post conflict activities.³³ Contractors most certainly play a critical role in post conflict activities such as reconstruction, as they are expected to in Afghanistan and Iraq, and humanitarian assistance operations. Contractors can be used to help transition from military operations to activities handled largely by other agencies. Contractors free forces for reconstitution and deployment to other theaters or missions. In exercising operational art, JFCs need to be aware that contractors are a potential

²⁹ U.S. Joint Chiefs of Staff, Doctrine for Joint Operations, Joint Pub 3-0 (Washington DC: 10 September 2001), III-9.

³⁰ Ibid, III-13.

³¹ Ibid, III-16.

resource which may enhance the execution of some facets of operational art. It is important for the JFC to consider the unique aspects of the theater of operations and the mission. Contractor utilization must be tailored to the theater's and mission's specific requirements, not simply based on a template developed from past operations.

How Contractors Impact Operational Functions

Operational functions are theater-wide processes in support of the employment of combat forces that JFCs must synchronize and sequence as they practice operational art.³⁴

Operational functions include command and control, command and control warfare, intelligence, fires, logistics, and protection. Contractors have the potential to impact all operational functions. However, the functions where contractors have the greatest impact are command and control, logistics, and protection.

Command and control is how the JFC integrates and orchestrates activities in the theater to accomplish operational and strategic objectives.³⁵ Military commanders operate by issuing orders and having them executed. Military personnel inherently understand and respond to the hierarchy of command. Contractors operate under a business regime that is outlined within the terms of a contract. They will do what the JFC asks as long as it is within the scope of their contract. Contractors and their individual employees can and do refuse to fulfill requests that are outside the contract terms. JFCs must understand the various contracts in effect and ensure their instructions to contractors within their respective jurisdictions are properly framed within the contract. The JFC has no authority to demand the contractor to perform outside the contract. Only the contracting officer has the authority

³² Ibid, III-23.

³³ Ibid, III-24.

³⁴ Vego, Milan, Operational Warfare, (Newport: Naval War College, 2000), 186.

³⁵ Ibid, 187.

to modify the terms of a contract. “Changing theater/military circumstances may force contract changes that are either too costly for the government or unacceptable to the contractor.”³⁶ This can reduce the JFC’s flexibility and ability to respond to changing theater conditions.

Military personnel are also subject to discipline under the Uniform Code of Military Justice (UCMJ) if they do something wrong or fail to perform. Since contractors do not fall under the purview of the UCMJ, a JFC has little recourse if a contractor fails to follow military regulations not included in the contract or even if the contractor fails to perform. Overall conditions of employment and performance issues are between the contractor employees and their supervisors. Any concerns the JFC has must be addressed via the contracting officer or the contracting officer’s representative. However, the JFC can discipline a contract employee indirectly by revocation of special status or privileges, limited access to facilities or removal from the area of operations.³⁷

Operational logistics is a critical function. It is required for the movement, maintenance, and sustainment of forces. Poor logistics may seriously degrade a JFC’s ability to employ forces to accomplish the mission. Contractors are most often utilized in the theater to provide logistics support functions and therefore can have a significant impact on the effectiveness of theater logistics. However, contractors are not totally self-sufficient. Their logistical needs must be integrated into the overall plan by the JFC.

Although a contractor has its own strategic lift capability, the contractor may be subject to the same logistical constraints as the military. Several factors can result in the degradation of the contractor’s ability to bring equipment and supplies into the theater. These include crowded lines of communication (LOC), an austere operating environment, and a theater with damaged

³⁶ Ferris, Stephen P. and Charles A. Rollberg, “Contractors Underway: The Future of Naval Logistics?” <<http://navsup.navy.mil/lintest/novdec1999/ferris.htm>> [16 March 2003], 2.

³⁷ Castillo, 2.

infrastructure or limited economy. For example in Bosnia, Brown and Root rail and truck shipping competed against the needs of the very troops the contractor was there to support. Contractor aircraft also compete with military aircraft for available ramp space.³⁸

Contractors may rely on the military for facilities or at least space for their facilities.

Contractors have people, equipment, and supplies that need to be moved to and within the theater. If they provide their own lift, their lift assets need to be accommodated. If military lift is used, contractor space requirements must be considered. Contractor support in theater is of no consequence if it cannot arrive at its in-theater destination or follow-up supplies such as spare parts, cannot be delivered. The JFC's ability to integrate contractors' contributions and requirements into overall theater logistics has a direct impact on contractors' ability to successfully provide support.

Joint doctrine focuses on operational protection to ensure the survivability of theater assets and preserve the effectiveness of forces.³⁹ Theater assets include contractors employed to provide support. While many contractors are behind the main lines, others are embedded. Technical Management Services Corp. which provides telecommunications, integrated logistics and systems integration support has over 40 employees in the Operation Iraqi Freedom war zone.⁴⁰ Even contractors behind the lines are not always safe. In January 2003, Michael Pouliot of Tapestry Solutions was killed in an ambush near Camp Doha. The theater environment plays a key role in determining the level of force protection required. In theaters where the population is friendly and the threat of terror attack is low, contractors may be able to move about freely with minimal force protection. As hostilities increase, so do contractor force protection requirements. On the issue of responsibility for providing

³⁸ Dowling and Feck, 9.

³⁹ Vego, 227.

⁴⁰ Caterinicchia, 2.

protection to contractors and their assets, doctrine is split. Joint Publication 4-0 states that “force protection for DOD contractor employees is a contractor responsibility, unless valid contract terms replace that responsibility.” Army doctrine clearly holds the commander responsible for contractor protection. “The Army has a moral responsibility, over and above specific contractual requirements to provide a secure working environment for contractor personnel.”⁴¹ Protecting contractors in the theater of operations is in the JFC’s best interest. If one wants contractors to provide support in the future, one must be able to provide the assurance the work environment will be as safe as possible. On the practical side, a dead, injured or captured contractor cannot provide support and introduces a range of legal and political issues. At a minimum, the JFC must ensure contractors are aware of dangers and how to protect themselves. Providing contractor protection may require the diversion of forces from other missions. When considering the use of contractors, particularly in dangerous environments, the JFC must consider the requirement to protect contractors and the impact on mission of providing that protection. In some cases the JFC’s may decide the use of military forces, which generally provide their own force protection, is the better option.

Recommendations

In all countries engaged in war, experience has sooner or later pointed out that contracts with private men of substance and understanding are necessary for the substance, covering, clothing and moving of any Army.

Robert Morris, Superintendent of Finance, 1781

Planning is key to successful mission accomplishment and it is a major responsibility assigned to JFCs and their staffs. Planning is also key to successful employment and integration of contractors. To begin planning, the JFC and the joint staff need to understand

⁴¹ U.S. Army Material Command, Contracts and Contractors Supporting Military Operations, Army Material

the mission, the theater, resource availability, and requirements. Component commanders, supporting commanders and subordinate commanders need to make the JFC commander aware of contractors that will be accompanying their forces. They should also broach any uncontracted requirements for contractor support. They should provide the number of contractors, their logistical requirements, their functions, and how and where they will operate. The JFC and supporting commanders must ensure contractor movements and requirements are accurately reflected in the Time-Phased Force and Deployment Data. This action will allow contractor requirements to be included in strategic lift allocations. The JFC must also include contractors' intra-theater lift requirements and other in-theater support and protection requirements in their operational plans. Careful planning and allocation of limited resources in the theater helps ensure that contractors are not competing with military requirements. An accurate assessment of the number of contractors can ensure that there is adequate force protection. It may also be critical in determining whether contractors can be effectively used in theater without degrading mission accomplishment. Knowing the details of contractor support required for each unit assigned to the theater enables the JFC to develop a plan for managing contractors and their requirements.

When planning, the JFC often discovers gaps or limitations with the resources allocated to the theater. JFCs and their staffs need to determine the best way to address shortfalls. They can consider reallocating their resources. They can request additional military resources, which may or may not be available. Also, force caps may preclude the addition of military forces. They could consider utilizing contractor support. In determining the feasibility of using contractors, JFCs must consider several factors. What is the availability of organic assets? Is there a contractor available to do the work? Is the work legal for the contractor to

do? For example, contractors cannot perform purely military functions and cannot participate in attacks or occupy defensive positions to secure a perimeter.⁴² What are the benefits and costs of using contractors? Costs can include contract costs, protection, lift, facilities, personnel support, and logistics support. It may be possible to require the contractor to be self-sufficient. Regardless, military planners should always be cognizant that whatever the arrangements, the contractor will ultimately charge the government accordingly. Additional planning concerns include: what is the risk of using contractors; what if they fail; will the operational environment support contractors? The operational environment may be too hostile or underdeveloped. Host Nation agreements or laws may not allow for the effective use of contractors. If contractors cannot be used initially, can they be phased in and how? “By identifying the types and extent of CLS one can reasonably plan for in a particular type of operation and environment, Joint Forces Logistics planners can avoid the pitfalls of overestimating what contractors can do and conversely, not using contractors to the fullest extent possible.”⁴³

“Managing contractors involves planning, visibility, and control, which is not unlike commanding and controlling soldiers.”⁴⁴ Integrating contractors is important to successful operations. Training is a tool that can help prepare contractor personnel for the theater. Contractors going into hostile theaters receive some training but it varies from operation to operation.⁴⁵ Basic training can include Geneva Convention, code of conduct, health,

⁴² Castillo, 6.

⁴³ Sullivan, John P., “Contractor Support of Operational Logistics: Limitations and Remedies,” (Unpublished Research Paper, Naval War College, Newport, RI: 2003), 1.

⁴⁴ Castillo, 2.

⁴⁵ McPeak, Michael B., <mcpeakmb@js.pentagon.mil> “FW: Information Request,” [E-mail to Jeanne Binder <binderj@nwc.navy.mil>] 11 April 2003.

security, weapons familiarization, NBC, rules of engagement, and host nation laws.⁴⁶ This basic training can provide contractors with some understanding of what to expect and what is expected of them; however, it cannot fully prepare them for the theater. Participation in exercises would more fully prepare contractors for working in theater with the military and would test planning assumptions regarding contractor support. However, contractors frequently do not participate in exercises for a variety of reasons, including: difficulty determining which contractors should participate; lack of contracts for this purpose; military unwillingness to pay for contracts for exercises; and contractor unwillingness to participate in exercises for free.⁴⁷ However, some contractor requirements are predictable and are included in plans. Long term LOGCAP and system support contracts are examples of forward planning for contractor support, but these arrangements are not practiced for combat operations. Of course, exercises don't typically mirror experiences with forward support bases and mobilizing technicians. JFCs and exercise planners need to come up with creative ways to include contractors. Tabletop exercises provide a mechanism to review a plan and determine if it is feasible without actually performing the function. For example, is company X capable of building an operating base in country Y by date Z? With some research, company X may determine they cannot build the base without additional military or political help to clear barriers created by the host nation. Incorporating contractors in predeployment work-ups may also be another way to integrate them and work out any issues before actually deploying.

⁴⁶ U.S. Army, "Force Protection," Field Manual 3-100.21, <<http://www.adtdl.army.mil/cgi-bin/adtdl.dll/fm/3-100.21/chap6.htm>> [16 April 2003], 6-7.

⁴⁷ McPeak.

Finally, a major concern of JFC's is having contractors arrive in theater unannounced and then asking for support.⁴⁸ Per Joint Publication 4-0, JFCs are responsible for contractor visibility. However, some things are easier said than done. Contractors may potentially have work originating from outside the theater of operations or even outside the purview of the Department of Defense; such as State Department or the Central Intelligence Agency. Aggressive planning can help resolve some of the issues but JFC should be prepared to handle additional contractor issues ad hoc. As much as possible, central control of contractors is critical. Joint Publication 4-0 provides little guidance in this area. JFC's and the Joint Staff should work together to review and update Joint Publication 4-0 to include guidance on establishing a control structure. JFCs could use the Principle Assistant Responsible for Contracting (PARC) structure outlined in Army doctrine. When the Army is the lead, the PARC may consolidate contracting activities in-theater into joint contracting centers employing contingency contracting personnel from the Services and other agencies.⁴⁹ The JFC decisions in organizing this centralized contracting organization should set policy for the movement of contractors in, within and out of the theater. In-processing procedures should ensure that training and other requirement have been met and that individual contractor personnel have proper identification. JFCs should also have a process to track contractor movement. A PARC-type organization should have representation from all the services involved in the theater and other agencies as required. The leadership of this organization should be intimately familiar with general contract concepts, and able to educate commanders on what to expect from the various specific contractors in theater as well as be able to resolve issues with those contracts. Including organizations like Defense Logistics

⁴⁸ Ibid.

⁴⁹ U.S. Army, Contracting Support on the Battlefield, 2.11.

Agency (DLA) and Defense Contract Management Agency (DCMA) can provide the team with in-depth contracting and contract management expertise. "...A centrally managed database, administered by DCMA, could facilitate the tracking of contractors in the AOR, the scope of their effort, the Government's responsibilities to these contractors, key points of contact, validation of their legal status, and, in general, provide some theater visibility to the CINC/commander."⁵⁰ "The necessity of close relations between the support commands, the customer, and the contractor is absolutely essential. Utilizing DCMA ensures prioritization of contractor support and representation for interfacing customer units, particularly when threat levels rise."⁵¹ While JFCs need to be aware of where contractors are in the theater and what service they are providing, JFCs and their staffs are not really set up nor do they have the expertise to handle this. A central focal point for handling contractor and contracting issues supported by agencies like DLA and DCMA with their tracking and management programs and expertise could facilitate better use of contractor assets and a better understanding of what those assets are providing relative to the cost and risk they present.

Conclusion

Military reliance on contractors for support in the theater of operations will continue for the foreseeable future. Contractors can provide a variety of beneficial services which allow the JFC to employ his forces elsewhere or resolve shortfalls due to force limitation or lack of capability. They can be a force multiplier. Contractors provide these services at a cost. In addition to the contract costs, the JFC may need to provide logistical or personnel support in-theater, as well force protection. There are also risks associated with using contractors. JFCs do not have the same level of control over contractors as they do over their forces.

⁵⁰ Thomas, Dwight E., "Contract Management Strategy for the 21st Century," <http://call.army.mil/products/trngqtr/tq1-01/Thomas.htm> [16 March 2003], 9.

Contractors are bound by the terms of their contract and they cannot be forced to perform in hostile situations. This may limit JFCs' flexibility. Joint Force Commanders must understand what contractors bring to the theater, the benefits, the costs and the risks, and include these factors as they practice operational art in the development of courses of action and theater plans. JFCs can use training and exercises to help integrate contractors and forces. Training helps each side to know what to expect from the other. Additionally, participation in exercises helps test planning assumptions regarding contractors. A centralized joint contracting organization established in the theater of operations manned by experienced joint contracting experts can facilitate better tracking and management of contractors in the theater.

⁵¹ Ibid, 10.

Bibliography

- Althouse, James E. "Contractors on the Battlefield: What Doctrine Says, and Doesn't Say." <<http://www.almc.army.mil/alog/issues/NovDec98/MS323.htm>> [16 March 2003].
- Buhler, Carl A. "When Contractors Deploy: A Guide for the Operational Commander." Unpublished Research Paper, Naval War College, Newport, RI: 2000.
- Castillo, Lourdes A. Waging War with Civilians: Asking the Unanswered Questions." <<http://www.airpower.maxwell.af.mil/airchronicles/apj/apj00/Castillo.doc>> [16 March 2003].
- Caterinicchia, Dan. "Contractors Integral to Wartime IT." Federal Computer Week, (7 April 2003).
- Cato, L. J. "Inside the Logistics Support Element-Bosnia." Army Logistician, 33, no. 6, (November-December 2001): 24-27.
- Chiarotti, Charles G. "Joint Contractor Logistics Support Doctrine: Ensuring Success on the 21st Century Battlefield." Unpublished Research Paper, Naval War College, Newport, RI: 2000.
- "Contractor Support in the Theater of Operations Desk Book Supplement." 28 March 2001. <<https://www.dscp.dla.mil/doc/contractor.doc>> [16 March 2003].
- Devens, Diane M. "A Jointness Concept for the Future: Civilians, Contractors, and Soldiers in Sync." Unpublished Research Paper, Army War College, Carlisle, PA: 1998.
- Dowling, Maria J. and Vincent J. Feck. "Feasibility of a Joint Engineering and Logistics Contract." Air Command and Staff College Wright Flyer Paper No. 7, (September 1999).
- Ferris, Stephen P. and Charles A. Rollberg. "Contractors Underway: The Future of Naval Logistics?" <<http://navsup.navy.mil/lintest/novdec1999/ferris.htm>> [16 March 2003].
- Fortner, Joe A. "Managing, Deploying, Sustaining, and Protecting Contractors on the Battlefield." <<http://www.almc.army.mil/ALOG/issues/SepOct00/MS571.htm>> [16 March 2003].
- Fortner, Joe A. and Ron Jaeckle. "Institutionalizing Contractors on the Battlefield." <<http://www.almc.army.mil/alog/issues/NovDec90/MS317.htm>> [16 March 2003].

- Gutierrez, John T. "Contracted Logistics Support in Operational Environments: The Legal Issues and Their Effects on the Decision to Outsource." Unpublished Research Paper, Naval Post Graduate School, Monterey, CA: 2001.
- Headquarters, Department of the Army. Protocols to the Geneva Conventions of 12 August 1949. Department of the Army Pamphlet 27-1-1. Washington DC: September 1979.
- Mattox, Philip A. and Guinn, William A. "Contingency Contracting in East Timor." Army Logistician. 32, no.4 (July-August 2000): 30-34.
- McCullough, James J. and Abram J. Pafford. "Contractors on the Battlefield: Emerging Issues for Contractor Support in Combat & Contingency Operations." Briefing Papers Second Series. <<http://ffhsj.com/govtcon/pdf/briefjune2002.pdf>> [16 March 2003].
- McPeak, Michael B. <mcpeakmb@js.pentagon.mil> "FW: Information Request." [E-mail to Jeanne Binder <binderj@nwc.navy.mil>] 11 April 2003.
- Nelson, Kim M. "Contractors on the Battlefield: Force Multipliers or Force Dividers?" Unpublished Research Paper, Air Command and Staff College, Maxwell AFB, AL: 2000.
- Orsini, Eric A. and Bublitz, Gary T. "Contractors on the Battlefield: Risks on the Road Ahead?" <<http://www.almc.army.mil/alog/issues/JanFeb99/MS376.htm>> [16 April 2003].
- Palmer, Herman T. "More Tooth, Less Tail: Contractors in Bosnia." Army Logistician, 31, no. 5 (September-October 1999): 6-9.
- Peters, Katherine M. "Civilians at War." 1 July 1996.
<<http://www.govexec.com/reinvent/downsize/0796s2.htm>> [16 April 2003].
- Roberts, Adam and Guelff, Richard. Documents on the Laws of War. New York: Oxford University Press, 2000.
- Robertson, Cynthia M. "Outsourcing: An Impact on Readiness?" Unpublished Research Paper, Air Command and Staff College, Maxwell AFB, AL: 2000.
- Robinson, Linda. "America's Secret Armies." 4 November 2002.
<<http://www.sandline.com/hotlinks/4contractors.htm>> [16 March 2003].
- Sullivan, John P. "Contractor Support of Operational Logistics: Limitations and Remedies." Unpublished Research Paper, Naval War College, Newport, RI: 2003.
- Toler, Larry L. "Civilians on the Battlefield." Army Logistician, (November-December 1994); 2-6.

- Thomas, Dwight E. "Contract Management Strategy for the 21st Century."
<<http://call.army.mil/products/trngqtr/tq1-01/Thomas.htm>> [16 March 2003].
- U.S. Army. Contractors Accompanying the Force. Army Regulation 715-9.
Washington DC: 29 October 1999.
- U.S. Army Material Command. Contracts and Contractors Supporting Military Operations.
Army Material Command Publication 715-18. Alexandria, VA: June 2000.
- U.S. Army. Contracting Support on the Battlefield. Army Field Manual 100-10-2.
Washington DC: April 1999.
- U.S. Army. "Force Protection." Field Manual 3-100.21.
<<http://www.adtdl.army.mil/cgi-bin/adtdl.dll/fm/3-100.21/chap6.htm>> [16 April 2003].
- U.S. Joint Chiefs of Staff. Doctrine for Joint Operations. Joint Pub 3-0. Washington DC:
10 September 2001.
- U.S. Joint Chiefs of Staff. Doctrine for Logistic Support of Joint Operations. Joint Pub 4-0.
Washington DC: 6 April 2000.
- U.S. Joint Chiefs of Staff. Unified Action Armed Forces (UNAAF). Joint Pub 0-2.
Washington DC: 10 July 2001.
- U.S. Naval War College. International Law Documents 1950-51. Washington DC: 1952.
- Vego, Milan. Operational Warfare. Newport: Naval War College, 2000.
- Williamson, Darrel A. "Contracted Logistics in Bosnia." Army Logistician, 30, no. 3 (May-June 1998): 21-23.
- Whitson, Anthony K. "Logistical Contractors on the Peacekeeping (PKO) Battlefield: A Guide for the Operational Commander." Unpublished Research Paper, Naval War College, Newport, RI: 2001.
- Young, David L. "Operational Planning for Contractor on the Battlefield." Unpublished Research Paper, Naval War College, Newport, RI: 1998.
- Young, David L. "Planning: The Key to Contractors on the Battlefield." Army Logistician, 31, no. 3 (May-June 1999): 10-13.
- Zamparelli, Steven J. "Contractors on the Battlefield: What Have We Signed Up For?" Air Force Journal of Logistics, 23, no. 3 (Fall 1999): 8-17.